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Counsel for 36 Monmouth Plaza LLC

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA

In re:) Chapter 11
)
CIRCUIT CITY STORES, INC., et al.) Case No. 08-35653
)
Debtors.) Jointly Administered
)
)

**36 MONMOUTH PLAZA LLC'S LIMITED OBJECTION
TO DEBTORS' PROPOSED ASSUMPTION AND ASSIGNMENT OF A NON-
RESIDENTIAL, COMMERCIAL LEASE TO PC RICHARDS & SONS**

36 Monmouth Plaza LLC ("Landlord"), by and through its counsel, Seyfarth Shaw LLP, respectfully submits this Limited Objection: (1) to the Cure Schedule, filed on March 4, 2009, by Circuit City Stores, Inc. (the "Debtor") (docket 2421); and (2) to the proposed assumption and assignment of its lease for premises located at The Eatontown Shopping Center, Eatontown, New Jersey. In support of its Limited Objection, Landlord submits the following:

BACKGROUND

A. The Lease, Pre-Petition Arrears, and Post-Petition Arrears

1. Pursuant to a lease, dated February 24, 1999, which was assigned to Landlord on or about June 18, 2002 (the “Lease”), Debtor is a tenant in a certain premises consisting of non-residential real property located in the shopping center known as Eatontown Shopping Center, in the City of Eatontown, New Jersey, and as more particularly described in the Lease and the exhibits thereto (the “Premises”).

2. Pursuant to the Lease, Debtor is required to pay, *inter alia*, the minimum rent, taxes, common area maintenance charges, electricity, and all additional rent and other charges and obligations required under the Lease.

3. On November 10, 2008, Debtors filed a voluntary petition under Chapter 11.

4. As of the petition date, Debtors’ pre-petition arrears under the Lease totaled \$93,669.67. Since the petition date, Debtors’ post-petition arrears under the Lease total \$121,568.44 through and including March 2009. A spreadsheet setting forth the nature and amount of those pre-petition and post-petition arrears is annexed hereto as **Exhibit A**.

B. The Bidding and Rejection Procedures Order, Notice of Potential Purchaser, and Cure Schedule

5. On February 19, 2009, the Court entered the Bidding and Rejection Procedures Order, docket No. 2242 (the “Bidding Order”).

6. Pursuant to a Notice to Counterparties to Leases that the Debtors Have Identified a Potential Purchaser of Unexpired Nonresidential Real Property Lease, dated March 3, 2009, (the “Notice”), Debtors gave Landlord notice that it had identified P.C. Richard & Son, Inc. as a potential purchaser of the Lease. A copy of the Notice is annexed hereto as **Exhibit B**.

7. Pursuant to the Bidding Order, Debtors filed a Cure Schedule, dated March 4, 2009, docket number 2407. According to the Cure Schedule, Debtors assert that the cure amount under the Lease (the "Cure Amount") is \$73,086.00.

RELIEF REQUESTED

8. Landlord objects to the Cure Amount on the basis that it is incorrect. As set forth above, and as reflected on Exhibit A, Landlord's records indicate that the correct Cure Amount is \$215,238.11, plus attorneys' fees. Landlord requests an order directing Debtors to change the Cure Amount under the Lease to \$215,238.11.

9. Landlord further objects to any sale, assumption or assignment to any third-party being approved without payment of the Cure Amount in the sum of \$215,238.11.

Dated: March 12, 2009

SEYFARTH SHAW LLP

By: /s/ Rhett Petcher
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CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of March 2009, I caused the foregoing Limited Objection of 36 Monmouth Plaza LLC to Debtors' Proposed Assumption and Assignment of a Non-residential, Commercial Lease to PC Richards and Sons to be served upon the following:

| | |
|---|---|
| Linda K. Myers, Esq. Kirkland & Ellis LLP 200 East Randolph Drive Chicago, Illinois 60601 | Bruce Matson, Esq. LeClair Ryan Riverfront Plaza, East Tower 951 East Byrd Street, Eighth Floor Richmond, Virginia 23219 |
| Gregg Galardi, Esq. Chris L. Dickerson, Esq. Skadden Arps Slate Meagher & Flom, LLP One Rodney Square Wilmington, Delaware 19889 | Lynn L. Tavenner, Esq. Paula S. Beran, Esq. Tavenner & Beran, PLC 20 North Eighth Street, Second Floor Richmond, Virginia 23219 |
| Dion W. Hayes, Esq. Douglas M. Foley, Esq. McGuire Woods LLP One James Center 901 East Cary Street Richmond, Virginia 23219 | Robert B. Van Arsdale, Esq. Office of the US Trustee 701 East Broad Street, Suite 4304 Richmond, Virginia 23219 |
| David S. Berman, Esq. Riemer & Braunstein LLP Three Center Plaza Boston, Massachusetts 02108 | |

via priority overnight delivery by depositing copies of same in properly addressed priority overnight envelopes which were picked up by a representative of Federal Express at 975 F. Street, N.W, Washington, D.C. 20004 and via the electronic case filing system.

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